

REMARKS

Claims 1-48 are pending in the present application.

The Examiner has required election in the present application between:

Group I, claims 1-13 and 44-47, drawn to a method of determining sympathetic tone;

Group II, claims 14-18 and 48, drawn to a method of quantitative determination of sympathetic tone;

Group III, claims 19-30, drawn to a system for measuring the sympathetic tone in a human being; and

Group IV, claims 31-43, drawn to a system for measuring the sympathetic tone in a human being.

For the purpose of examination of the present application, Applicant elects, with traverse, Group I, Claims 1-13 and 44-47. However, it is believed that at least Groups I, II and III are properly examinable in the present application, since all of the claims in these groups are directed to the same invention. The Examiner indicates that the same special technical feature is not included in the claims, because the special technical feature does not define a contribution over the prior art. Applicant disagrees with the Examiner. However, to the extent it is necessary to amend the elected independent claims to define over the prior art, Applicant requests rejoinder of any claims that include the same special technical feature.

In addition, it is respectfully requested that the Examiner reconsider the Restriction Requirement since no serious burden would be presented to the Examiner by examining all of the claims in a single application.

As set forth in section 803 of the MPEP, the Examiner must examine an application on the merits if the examination of the entire application can be made without serious burden. Two criteria are identified for proper requirement for Restriction:

1. The inventions must be independent or distinct as claimed; and
2. There must be a serious burden on the Examiner if the Restriction is not required.

Applicant respectfully submits that a serious burden has not been placed on the Examiner to consider all of the claims in the single application. The Examiner is respectfully requested to consider all of the claims in the present application and to withdraw the Restriction Requirement.

In order to be responsive to the Examiner's Restriction Requirement, claims 1-13 and 44-47 have been elected with traverse. Applicant reserves the right to file a divisional application directed to the non-elected claims at a later date if it is so desired.

Favorable action on the present application is earnestly solicited.

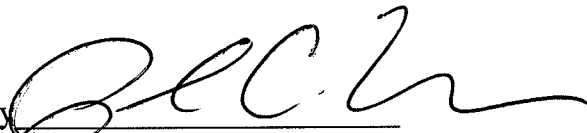
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Paul C. Lewis, Registration No 43,368 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

- ☒ Attached is a Petition for Extension of Time.
- ☒ Attached hereto is the fee transmittal listing the required fees.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: **October 15, 2009**

Respectfully submitted,

By 

Paul C. Lewis

Registration No.: 43,368

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant